IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8282 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAYANK RAMAKANT PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR JAYESH A DAVE for Petitioner(s) : 1,
MR KRUNAL D PANDYA, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 29/03/2007

ORAL JUDGMENT

In this petition the petitioner has challenged the order of respondent no. 2 dated 7/2/2006, whereby the concerned officer has exercised

power under rule 11 of the Gujarat Stamps Supply & Sales Rules, 1987 [hereinafter referred to as 'the Rules'] and has cancelled non-judicial stamp licences of the petitioner with effect from 8/2/2006. It appears from the impugned order that on 16/7/2005 the supervisors of Stamp Office carried out surprise checking at the site of the stamp vending by the petitioner and upon checking the register it was found that the petitioner had sold to Mr. Y A Rangwala, advocate practicing in City Civil Court, 88 stamp papers of the value of Rs.20/- each during the period between May 2005 and June 2005. It is alleged that since the petitioner had not indicated the details for whom the stamps were purchased by Mr. Rangwala in the sale register, he had committed breach of rule 14(1) of the Rules and, therefore, respondent no. 2 issued show cause notice dated 15/12/2005 to the petitioner alleging breach of rule 14 (1) and (2). In response to the same, the petitioner submitted his written reply. Ultimately respondent no. 2 came to the conclusion that Mr. Rangwala did not utilized these stamp papers for his own purpose, but utilized them for his clients. He, therefore, held that since the petitioner had sold stamp papers, 88 in number, and he had even not noted the details in the sale register for whom they were purchased, he had committed breach of rule 14(1) of the Rules. On the basis of the same, respondent no. 2 passed the ultimate order holding that it was necessary in public interest to cancel the licences of the petitioner with immediate effect and accordingly they were cancelled with effect from 8/2/2006.

2. Mr. Dave, learned advocate appearing for the petitioner has submitted that the facts would reveal that no such breach was committed by the petitioner. He has further submitted that even if such breach is found to have been committed by the petitioner, the maximum punishment that can be imposed upon him is fine to the extent of Rs.500/- and nothing beyond that. He has drawn my attention to the relevant provisions of the Rules. Rule 14(1) reads as under :-

> "Every Ex-Officio, Official or Licensed vendor shall, with his own hand, write, on the face of every stamp embossed or engraved on stamped paper which he sells, just below the stamp impression, a serial number, the date of sale, the name and residence of the purchaser [i.e., of the person for whom the stamp is bought], the value of the stamp in full in words and his own signature."

The aforesaid provision would show that the stamp vendor has to write 'the name and residence of the purchaser i.e., the person for whom the stamp is bought'. In the instant case, there are 88 such stamp papers which have been sold by the petitioner to one person, namely Mr. Rangwala, advocate, within a span of one month. It is found by respondent no. 2 that these stamp papers have not been utilized by Mr. Rangwala for his own purpose, but they have been utilized for his clients. Obviously, therefore, Mr. Rangwala bought the stamp papers on behalf of his clients, details of whom were not noted in register. However, even if that fact is not recorded in the register and that is

causing the breach of rule 14(1), the maximum punishment that can be imposed upon the petitioner by the concerned authority will be in accordance with rule 62 which reads as under :-

> "The Collector or any officer authorised by the State Government in this behalf shall after giving opportunity of being heard to the licensed vendor impose fine not exceeding five hundred rupees for committing any of the breach of rule 8, [rule 14], sub-rule (2) of rule 18, rule 19, rule 26, rule 39, sub-rule (3) of rule 46, rule 47 or rule 49 of these rules by the licensed Vendor."

This provision shows that for breach of rule 14, the maximum punishment that could be fine not exceeding Rs.500/-. Therefore, it is obvious that the punishment imposed by respondent no. 2 is beyond the scope of rule 62. Hence, the impugned order is required to be quashed and set aside and it is hereby quashed and set aside. The petition is allowed with no order as to costs. The licences to be revived within 10 days from the date of receipt of writ of this order. However, it is clarified that the respondent authority will be at liberty to reconsider the material produced before it and after affording opportunity of hearing to the petitioner, impose appropriate punishment in accordance with law, if found necessary. D S permitted.

[Akshay H Mehta, J.]

* Pansala.